



General Assembly

February Session, 2002

Raised Bill No. 360

LCO No. 1408

Referred to Committee on Public Health

Introduced by:
(PH)

AN ACT CONCERNING NOTICE AND PUBLIC HEARING PRIOR TO A NURSING HOME CLOSURE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 17b-352 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2002*):

3 (a) For the purposes of this section and section 17b-353, "facility"
4 means a residential facility for the mentally retarded licensed pursuant
5 to section 17a-277, as amended, and certified to participate in the Title
6 XIX Medicaid program as an intermediate care facility for the mentally
7 retarded, a nursing home, rest home or residential care home, as
8 defined in section 19a-490, as amended.

9 (b) Any facility which intends to (1) transfer all or part of its
10 ownership or control prior to being initially licensed; (2) introduce any
11 additional function or service into its program of care or expand an
12 existing function or service; or (3) terminate a service or decrease
13 substantially its total bed capacity, shall submit a complete request for
14 permission to implement such transfer, addition, expansion, increase,
15 termination or decrease with such information as the department

16 requires to the Department of Social Services. The office of the Long-
17 Term Care Ombudsman pursuant to section 17b-400 shall be notified
18 by the facility of any proposed actions pursuant to this subsection at
19 the same time as the request for permission is submitted to the
20 department.

21 (c) An applicant, prior to submitting a certificate of need
22 application, shall request, in writing, application forms and
23 instructions from the department. The request shall include: (1) The
24 name of the applicant or applicants; (2) a statement indicating whether
25 the application is for (A) a new, additional, expanded or replacement
26 facility, service or function, (B) a termination or reduction in a
27 presently authorized service or bed capacity or (C) any new, additional
28 or terminated beds and their type; (3) the estimated capital cost; (4) the
29 town where the project is or will be located; and (5) a brief description
30 of the proposed project. Such request shall be deemed a letter of intent.
31 No certificate of need application shall be considered submitted to the
32 department unless a current letter of intent, specific to the proposal
33 and in accordance with the provisions of this subsection, has been on
34 file with the department for not less than ten business days. For
35 purposes of this subsection, "a current letter of intent" means a letter of
36 intent on file with the department for not more than one hundred
37 eighty days. A certificate of need application shall be deemed
38 withdrawn by the department, if a department completeness letter is
39 not responded to within one hundred eighty days. The office of the
40 Long-Term Care Ombudsman shall be notified by the facility at the
41 same time as the certificate of need application is submitted to the
42 department.

43 (d) Upon receipt of a facility's certificate of need application
44 pursuant to subdivision (3) of subsection (b) of this section, the
45 department shall hold a public hearing at the facility within thirty days
46 of receipt of the certificate of need application. The public hearing shall
47 be held at a reasonable time, so that the patients, guardians,
48 conservators, legally liable relatives or other responsible parties may

49 attend. The department shall notify the facility of the date of the public
50 hearing at least fourteen days before the date of the hearing. The
51 department shall not grant, modify, or deny the facility's certificate of
52 need application until at least seven days after the public hearing.

53 (e) (1) Any facility acting pursuant to subdivision (3) of subsection
54 (b) of this section shall provide written notice, at the same time it
55 submits its application, to all patients, guardians or conservators, if
56 any, or legally liable relative or other responsible parties, if known,
57 and shall post such notice in a conspicuous location at the facility. The
58 notice shall state the following: (A) The projected date the facility will
59 be submitting its certificate of need application, (B) that only the
60 department has the authority to either grant, modify or deny the
61 application, (C) that the department has up to ninety days to grant,
62 modify or deny the certificate of need application, (D) a brief
63 description of the reason or reasons for submitting a request for
64 permission, (E) that no patient shall be involuntarily transferred or
65 discharged within or from a facility pursuant to state and federal law
66 because of the filing of the certificate of need application, (F) that all
67 patients have a right to appeal any proposed transfer or discharge, (G)
68 within thirty days of the submission of the facility's certificate of need
69 application, the department shall convene a public hearing at the
70 facility, (H) the hearing shall be held at a reasonable time, so that the
71 patients, guardians, conservators, legally liable relatives or other
72 responsible parties may attend, and (I) the name, mailing address and
73 telephone number of the office of the Long-Term Care Ombudsman
74 and local legal aid office.

75 (2) After the facility is notified of the date of the public hearing
76 pursuant to subsection (d) of this section, the facility shall provide
77 written notice at least seven days prior to the public hearing to all
78 patients and the patients' guardian or conservator, if any, or legally
79 liable relative or other responsible party, if known, and the office of the
80 Long-Term Care Ombudsman.

81 (f) The notice referred to in subdivision (1) of subsection (e) of this
82 section shall be in writing, substantially in the following form:

83 "(Name of facility) hereby gives (Name of the patient and the
84 patient's guardian or conservator, if any, or legally liable relative or
85 other responsible party if known) notice that we will be requesting
86 from the Department of Social Services permission to (state either close
87 this facility or substantially decrease our bed capacity). The reason for
88 our request is (state reason).

89 We have notified the department of our intention and will be
90 submitting our formal application, which is called a certificate of need
91 application, to the department on (projected date). You cannot be
92 involuntarily transferred or discharged as a result. You have a right to
93 appeal any involuntary transfer or discharge. This means that you do
94 not need to take any action at this time if you so choose.

95 The Department of Social Services will hold a public hearing at
96 (name of facility) within thirty days of the submission of our certificate
97 of need application. The department will decide whether to grant,
98 modify or deny our request for (state either closure or bed reduction).
99 The department's decision will be made within ninety days of receipt
100 of our certificate of need application, unless extended by the
101 department. You will be notified in writing by us of the hearing date.

102 You may contact the office of the Long-Term Care Ombudsman and
103 local legal aid office for more information at: (Provide the names,
104 mailing addresses and telephone numbers).

105 Insert the name of facility, the date and place of signing notice"

106 [(d)] (g) The department shall review a request made pursuant to
107 subsection (b) of this section to the extent it deems necessary,
108 including, but not limited to, in the case of a proposed transfer of
109 ownership or control prior to initial licensure, the financial
110 responsibility and business interests of the transferee and the ability of

111 the facility to continue to provide needed services, or in the case of the
112 addition or expansion of a function or service, ascertaining the
113 availability of the function or service at other facilities within the area
114 to be served, the need for the service or function within the area and
115 any other factors the department deems relevant to a determination of
116 whether the facility is justified in adding or expanding the function or
117 service. The commissioner shall grant, modify or deny the request
118 within ninety days of receipt thereof, except as otherwise provided in
119 this section. Upon the request of the applicant, the review period may
120 be extended for an additional fifteen days if the department has
121 requested additional information subsequent to the commencement of
122 the commissioner's review period. The director of the office of
123 certificate of need and rate setting may extend the review period for a
124 maximum of thirty days if the applicant has not filed in a timely
125 manner information deemed necessary by the department. The
126 applicant may request and shall receive a hearing in accordance with
127 section 4-177 if aggrieved by a decision of the commissioner.

128 [(e)] (h) The Commissioner of Social Services shall not approve any
129 requests for beds in residential facilities for the mentally retarded
130 which are licensed pursuant to section 17a-227, as amended, and are
131 certified to participate in the Title XIX Medicaid Program as
132 intermediate care facilities for the mentally retarded, except those beds
133 necessary to implement the residential placement goals of the
134 Department of Mental Retardation which are within available
135 appropriations.

136 [(f)] (i) The Commissioner of Social Services shall adopt regulations,
137 in accordance with chapter 54, to implement the provisions of this
138 section. The commissioner shall implement the standards and
139 procedures of the Office of Health Care Access concerning certificates
140 of need established pursuant to section 19a-643, as appropriate for the
141 purposes of this section, until the time final regulations are adopted in
142 accordance with said chapter 54.

This act shall take effect as follows:	
Section 1	<i>October 1, 2002</i>

Statement of Purpose:

To require notice and a public hearing prior to a nursing home closure.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]